THE HON'BLE SRI JUSTICE C.V. NAGARJUNA REDDY

WRIT PETITION No. 26303 of 1996

Dated: 14.03.2007

Between:

Ch. Murali Krishna

... Petitioner

AND

The Commissioner of Endowments Department,
Tilak Road, Abids, Hyderabad & another.

... Respondents

THE HON'BLE SRI JUSTICE C.V. NAGARJUNA REDDY

WRIT PETITION No. 26303 of 1996

ORDER:-

This writ petition is filed for a writ of Mandamus to declare that the petitioner is entitled for promotion as Assistant Engineer in Category 2 in Class II under Andhra Pradesh Charitable and Hindu Religious Institutions and Endowments Office Holders and Servants conditions of Service Rules, 1983 (for short "the 1983 Service Rules").

The petitioner was appointed on regular basis in the post of plumber on 01.08.1985 in Sri Varaha Lakshmi Narasimha Swamy Devasthanam, 2nd respondent herein. The petitioner claimed that he acquired the necessary qualification such as Diploma in Civil Engineering, which was entered in the service register on 31.12.1993. He also claimed to have passed the accounts test for Subordinate Officers Part-I and also the Endowment Act Rules Test in 1993 itself; that during November 1994, he passed Public Works Department Officers Test I and II. The petitioner, therefore, claims that he is fully eligible for being considered for promotion to the post of Additional Assistant Engineer, which falls under category 2 of the 1983 service rules.

The petitioner's grievance is that despite his putting in 11 years of service as plumber and acquiring all the qualifications required for promotion to the post of Additional Assistant Engineer, his case is not considered for promotion.

The Executive Officer of the 2nd respondent devasthanam filed a counter-affidavit in which it is stated that in order to fill the post of Additional Assistant Engineer by promotion, the employee must hold the post of draftsman Grade-I and that since the petitioner never holds the said post, he is not eligible for promotion.

It is to be noted that when the writ petition was filed, the 1983 service rules were in force. Later they were replaced by rules made in the year 2000 under the A.P. Charitable and Hindu Religious Institutions and Endowments Act, 1987.

On a comparison of both the rules, I do not see substantial difference between the two rules; at least for deciding the controversy involved in this writ petition. A perusal of Annexure-3 to the 2000 rules indicates that eight major temples were classified into one category and their employees are divided into different categories viz., Class-I Ministerial branch, Class-II Engineering branch (Civil), Class-III Electrical branch, Class-IV Water works branch, Class-V Medical branch and Class-VI Health branch.

As regards the post of plumber, the same is not born out by any of these branches. It is no doubt true that in 1983 service rules for promotion to the post of Additional Assistant Engineer,

one must have passed the test for PWD Officers and if he does not possess LCE, LME or equivalent he must have served as Draughtsman Grade-I for not less than 10 years. Under the 2000 rules, the requirement that one should serve as Draughtsman Grade-I is not provided.

The contention of the learned counsel for the petitioner is that since the petitioner holds diploma in LCE, he is entitled to be considered for promotion and that there is no justification for the respondents to insist that he should have served as Draughtsman Grade-I for not less than 10 years.

Though this contention appears to be attractive at the first blush, I am unable to accept the same. From the Annexure-III it is clear that there are different categories of posts in the Engineering Branch (Civil, Electrical and Water Works branches).

As regards civil branch, while post of Assistant Engineer is included in category 2, post of Draughtsman Grade-I is included in category 3 and in Electrical branch while Assistant Engineer post is shown at category 1, the post of electrician is shown at category 2. Similarly, in water works branch the post of Assistant Engineer is shown as category 1 and the post of mechanic is shown as category 2. As already noticed, in none of these three branches, the post of plumber finds a place. Thus, the post of plumber falls totally outside the cadre of engineering wing of all the three branches. However, the learned counsel sought to place reliance upon the proceedings in Rc.No.B1/3799/97 dated

22.11.1999 a copy of which was passed on during the course of hearing. The said proceedings are said to be a letter addressed by the Executive Officer of Sri Varaha Lakshmi Narsimha Swamy Devasthanam to the Commissioner, Endowments Department, wherein it is mentioned that a regular post of plumber was created in the establishment of Simhachalam Devasthanam by the Commissioner, Endowments Department on 08.11.1984, the same was filled up through Employment Exchange and that the present applicant (the petitioner) was appointed on regular basis in the said post of plumber on 01.08.1985. It is also stated that under the rules made under G.O.Ms.No.1478 dated 17.11.1986, which came into effect from 17.11.1986, the post of Mechanic is designated in category 2 in water works branch and there is no post of plumber in the said G.O. It is further stated that the duties of plumber and mechanic are one and the same. In my view this letter does not advance the case of the petitioner. No official of the department can substitute what the rules provide for. The prescription of the qualification for promotion presupposes that a person holding the qualifications and aspiring for promotion must necessarily belong to the cadre in which he is seeking promotion. A rankoutsider cannot seek promotion merely because he holds all the educational qualifications, which the rules prescribe for consideration to a promotion post. Accepting such a proposition would lead to anomaly where any person unconnected with the department can seek promotion in any branch. Such a position cannot be countenanced. So long as the post of plumber is not included in any of the three engineering divisions in the

department, the petitioner is not entitled to promotion to any of the categories mentioned in the said divisions.

For the aforementioned reasons, the writ petition fails and is according dismissed. No costs.

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C.V. NAGARJUNA REDDY, J

Date: 14.03.2007
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